

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION

MDL No. 3076
Case No. 1:23-md-03076-KMM

IN RE:
FTX Cryptocurrency Exchange Collapse Litigation

This document relates to:

THIS DOCUMENT RELATES TO ALL ACTIONS

**PLAINTIFFS' NOTICE OF FILING SUPPLEMENTAL AUTHORITY IN SUPPORT
OF PLAINTIFFS' RESPONSES IN OPPOSITION TO DEFENDANTS' MOTIONS TO
DISMISS [ECF No. 349, 350, 354, 358, 361, 362, 368, 369, 370, 371, 372, 543]**

Plaintiffs submit, as supplemental authority in support of their Responses in Opposition [ECF No. 349, 350, 354, 358, 361, 362, 368, 369, 370, 371, 372, 543] to Defendants' Motions to Dismiss the Complaint [ECF No. 262, 265, 271, 276, 281, 283, 301, 302, 303, 311, 499], and in follow up on Plaintiffs' Notice of Supplemental Authorities filed in this action on March 14, 2024 [ECF No. 535], and March 21, 2024 [ECF No. 552], a recent order denying defendants' motion to dismiss by the Honorable Ruth B. Montenegro of the Southern District of California in *Bhatia v. Silvergate Bank, et. al.*, No. 3:23-cv-01406-RBM-BLM, 2024 WL 1199679 (S.D. Cal. Mar. 20, 2024) (the "Silvergate Order"), where plaintiffs brought claims against Silvergate Capital Corporation, Silvergate Bank (together, the "Silvergate Defendants"), and Alan J. Lane (CEO of Silvergate Capital Corporation) for in essence facilitating the fraud and other misconduct at FTX by diverting customer funds in concert with the cryptocurrency exchange FTX and its affiliates, including the cryptocurrency trading firm Alameda Research ("Alameda"). The Silvergate Order is attached hereto as **Exhibit A**.

There, plaintiffs alleged, *inter alia*, that "Silvergate banked both FTX and Alameda, and it processed transfers that sent FTX customer money to Alameda." "Silvergate profited from dollar deposits by digital-asset customers, and these deposits grew exponentially as FTX's own business expanded." *Bhatia*, 2024 WL 1199679, at *6 and *7. Judge Montenegro held that the plaintiffs "adequately pled claims for negligence, aiding and abetting fraud, aiding and abetting conversion, aiding and abetting breach of fiduciary duty, unjust enrichment, and violations of California's UCL against Silvergate Capital." *Id.* at *16. The Silvergate Order is thus fully supportive of the above-cited

Responses in Opposition in that Plaintiffs herein have also alleged, in detail, similar or greater wrongdoing by a wide variety of Defendants who were aware of, should have been aware of and/or participated in the fraudulent scheme at FTX. *See id.* at *28 (*Bhatia* plaintiffs alleged that defendants witnessed FTX and Alameda's fraudulent scheme and were aware of those illicit activities).

For this additional reason, the above-referenced motions to dismiss should be denied.

Dated: March 27th, 2024,

Respectfully submitted,

<u>Plaintiffs' Co-Lead Counsel</u>	
<p>By: <u>/s/ Adam Moskowitz</u> Adam M. Moskowitz Florida Bar No. 984280 Joseph M. Kaye Florida Bar No. 117520 THE MOSKOWITZ LAW FIRM, PLLC Continental Plaza 3250 Mary Street, Suite 202 Coconut Grove, FL 33133 Office: (305) 740-1423 adam@moskowitz-law.com joseph@moskowitz-law.com service@moskowitz-law.com</p>	<p>By: <u>/s/ David Boies</u> David Boies Alex Boies Brooke Alexander BOIES SCHILLER FLEXNER LLP 333 Main Street Armonk, NY 10504 Office: (914) 749-8200 dboies@bsfllp.com aboies@bsfllp.com balexander@bsfllp.com</p>

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the forgoing was filed on March 27th, 2024, via the Court's CM/ECF system, which will send notification of such filing to all attorneys of record.

By: /s/ Adam Moskowitz
Adam Moskowitz